

MUNICIPAL WATER JURISDICTION AMENDMENTS

2021 GENERAL SESSION

STATE OF UTAH

LONG TITLE**General Description:**

This bill addresses the jurisdiction of municipalities related to water and watersheds.

Highlighted Provisions:

This bill:

- defines terms;
- addresses requirements for a municipality exercising extraterritorial jurisdiction related to the municipality's water supply;
- requires reporting by the Division of Drinking Water; and
- makes technical changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-8-15, as last amended by Laws of Utah 2019, Chapter 413

Be it enacted by the Legislature of the state of Utah:

Section 1. Section **10-8-15** is amended to read:

10-8-15. Waterworks -- Construction -- Extraterritorial jurisdiction.

(1) As used in this section[;]:

(a) [~~"affected"~~] "Affected entity" means a:

[~~(a)~~] (i) county that has land use authority over land subject to an ordinance or regulation described in this section;

[~~(b)~~] (ii) local health department, as that term is defined in Section 26A-1-102, that has jurisdiction pursuant to Section 26A-1-108 over land subject to an ordinance or regulation described in this section;

33 ~~[(c)]~~ (iii) municipality that has enacted or has the right to enact an ordinance or
34 regulation described in this section over ~~[the]~~ land subject to an ordinance or regulation
35 described in this section; and

36 ~~[(d)]~~ (iv) municipality that has land use authority over land subject to an ordinance or
37 regulation described in this section.

38 (b) "Extraterritorial jurisdiction area map" means a map, drawn by a municipality, that
39 shows the area over which the municipality may exercise jurisdiction under this section.

40 (c) "Outhouse" means an outbuilding containing a toilet or urinal that is not connected
41 to a sewer system, including a portable toilet or urinal.

42 (2) A municipality may construct or authorize the construction of waterworks within or
43 without the municipal limits, and for the purpose of maintaining and protecting the same from
44 injury and the water from pollution the municipality's jurisdiction shall extend over the territory
45 occupied by such works, and over all reservoirs, streams, canals, ditches, pipes and drains used
46 in and necessary for the construction, maintenance and operation of the same, and over the
47 stream or other source from which the water is taken, for 15 miles above the point from which
48 it is taken and for a distance of 300 feet on each side of such stream and over highways along
49 ~~[such]~~ the stream or watercourse within ~~[said]~~ that 15 miles and ~~[said]~~ that 300 feet.

50 (3) ~~[The jurisdiction of a]~~ A city of the first class ~~[shall additionally be]~~:

51 (a) has additional jurisdiction over the entire watershed from which the city of the first
52 class takes water for domestic or culinary use within the county of origin of the city of the first
53 class; and

54 (b) subject to Subsection ~~[(6) provided that]~~ (9), has additional jurisdiction over the
55 entire watershed from which the city of the first class takes water for domestic or culinary use
56 outside the county of origin of the city of the first class.

57 (4) A city of the first class shall permit livestock ~~[shall be permitted]~~ to graze beyond
58 1,000 feet from any ~~[such]~~ stream or source~~[-and provided further, that the]~~ from which the
59 city takes water for domestic or culinary use.

60 (5) A city of the first class shall provide a highway in and through the city's corporate
61 limits, and so far as the city's jurisdiction extends, ~~[which]~~ that may not be closed to cattle,
62 horses, sheep, hogs, or goats driven through the city, or through any territory ~~[adjacent thereto]~~
63 over which the city has jurisdiction, but the board of commissioners of the city may enact

ordinances placing under police regulations the manner of driving ~~[such]~~ cattle, sheep, horses, hogs, and goats through the city, or through any territory ~~[adjacent thereto]~~ over which the city has jurisdiction.

~~[(4)]~~ (6) A municipality may enact ~~[all ordinances and regulations]~~:

(a) an ordinance or regulation necessary to carry the power [herein] conferred under this section into effect~~[, and is authorized and empowered to enact ordinances]~~;

(b) an ordinance preventing pollution or contamination of the streams or watercourses from which the municipality derives the municipality's water supply, in whole or in part, for domestic and culinary purposes~~[-]; and [may enact ordinances]~~

(c) an ordinance prohibiting or regulating the construction or maintenance of~~[any closet, privy;]~~ an outhouse [or urinal] within the area over which the municipality has jurisdiction, and provide for permits for the construction and maintenance of [the same] an outhouse within the area over which the municipality has jurisdiction.

~~[(5)]~~ (7) In granting a permit described in Subsection ~~[(4)]~~ (6), a municipality may ~~[annex thereto such]~~ include reasonable conditions and requirements for the protection of the public health ~~[as]~~ that the municipality determines proper, and may, if ~~[determined]~~ the municipality determines it is advisable, require that ~~[all closets, privies and urinals along such streams]~~ an outhouse within the area over which the municipality has jurisdiction under this section shall be provided with an effective septic [tanks] tank or other germ-destroying instrumentalities.

(8) After July 1, 2021, if a city of the first class exercises extraterritorial jurisdiction over a watershed within the city's county of origin, as described in Subsection (3)(a), the city shall submit a report to the Division of Drinking Water each time an ordinance or regulation authorized by Subsection (6) is adopted or amended and include in the report:

(a) how each affected entity was notified of the proposed ordinance or regulation;

(b) the nature of any comment or concern presented by an affected entity or by the general public; and

(c) the city's response to each comment or concern, including how the city addressed the comment or concern in the ordinance or regulation, or why the comment or concern was not addressed.

~~[(6)]~~ (9) A city of the first class may only exercise extraterritorial jurisdiction outside

of the city's county of origin, as described in Subsection (3)(b), pursuant to a written agreement with all municipalities and counties that have jurisdiction over the area where the watershed is located.

~~(7)~~ (10) (a) After July 1, 2019, a municipal legislative body that seeks to adopt an ordinance or regulation under ~~[the authority of]~~ this section shall:

(i) hold a public hearing on the proposed ordinance or regulation; and

(ii) give notice of the date, place, and time of the hearing, as described in Subsection ~~(7)~~ (10)(b).

(b) At least ten days before the day on which the public hearing described in Subsection ~~(7)~~ (10)(a)(i) is to be held, the notice described in Subsection ~~(7)~~ (10)(a)(ii) shall be:

(i) mailed to:

(A) each affected entity;

(B) the director of the Division of Drinking Water; and

(C) the director of the Division of Water Quality; and

(ii) published:

(A) in a newspaper of general circulation in the county in which the land subject to the proposed ordinance or regulation is located; and

(B) on the Utah Public Notice Website created in Section 63F-1-701.

(c) An ordinance or regulation adopted under ~~[the authority of]~~ this section may not conflict with:

(i) ~~[existing federal or state statutes]~~ a statute or constitution of the federal government or the state; or

(ii) a rule created pursuant to ~~[a federal or state statute governing drinking water or water quality]~~ a statute described in Subsection (10)(c)(i).

(d) A municipality that enacts an ordinance or regulation under this section shall state in writing how the ordinance or regulation relates to protection of the municipality's domestic or culinary water.

~~(d)~~ (e) A municipality that enacts an ordinance or regulation under ~~[the authority of]~~ this section shall:

(i) provide a copy of the ordinance or regulation and the statement required by

126 Subsection (10)(d) to each affected entity; [~~and~~]
127 (ii) include a copy of the ordinance or regulation, the statement required by Subsection
128 (10)(d), and an extraterritorial jurisdiction area map in the municipality's drinking water source
129 protection plan[-]; and
130 (iii) provide a copy of the ordinance or regulation and the statement required by
131 Subsection (10)(d) to the Division of Drinking Water.
132 (11) Annually, the Division of Drinking Water shall report to the Natural Resources,
133 Agriculture, and Environment Interim Committee on how many reports the Division of
134 Drinking Water has received under this section and which municipalities submitted the reports.